UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,410	07/18/2003	Kirby Files	131195.1003	4190

32914   7590   10/09/2007
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ART UNIT	PAPER NUMBER
2144	

MAIL DATE	DELIVERY MODE
10/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/622,410	FILES ET AL.
	Examiner	Art Unit	
	Mohamed Ibrahim	2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 July 2007*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-27* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

Response to Amendment

This communication is in response to the response filled on 7/25/2007.

Claims 1,13,21 and 27 have been amended.

Claims 1-27 are pending.

Claim Rejections - 35 USC § 101

·1.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and·useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-7, 13-18 and 21-27 are rejected under 35 U.S.C. 101 because the claimed

invention is directed to non-statutory subject matter. For a method claim to be statutory,

it must produce useful, concrete and tangible result. However, the instant method

consists of the steps for receiving, generating, updating and determining configuration

data for a packet, which are useful and concrete, nonetheless the method is still lacking

a tangible result as the claim does not recite a result of the received packet which is

useful, concrete and tangible nor is there a physical transformation, so as to be

available for use in a practical application. Therefore, the claim need to either store,

transmit (send), or display the result of the received packet.

As for claims 21 and 27, it is fine that the recited instructions are stored in a computer

readable medium however; these instructions still need to produce useful, concrete and

tangible result. Therefore, similarly claims 21 and 27 are rejected for lacking tangible

result (see the explanation for 1 above).

Claims that depend from the above addressed independent claims are also rejected for

the same reason of lacking tangible result.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3.   Claims 1-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Collins

III et al. (Collins), U. S. Patent No. 5845090.

Regarding claim 1, Collins discloses a method, comprising: implemented on one or

more computing devices, receiving from a computing device operated by a customer of

network services from an operator of one or more packet networks a service request for

adding, modifying or canceling a packet transport service having defined service levels

of one or more packet networks (see e.g. fig. 5B, col. 7 lines 34-49 and col. 8 lines 22-

38;a target computer requests packages from Stage Server and when target requests

the package, it reports its values for known criteria so that the Transfer Daemon

removes optional data files in turn the modified package is received by the Target); and

automatically generating , in response to receiving the service request, updated

configuration data for one or more of a plurality of network elements of said one or more

packet networks necessary for implementing the service request (see e.g. col. 1 lines

48-62, col. 3 lines 27-49 and col. 10 lines 32-45; each package contains one or more

data items which depend on pre-specified configuration values of the target that are

selected during the transfer).

Regarding claim 2, Collins discloses further comprising automatically determining which

of the plurality of network elements will be affected by the service request (see e.g. col.

5 lines 50-62 and col. 6 lines 58-64).

Regarding claim 3, Collins discloses wherein automatically generating updated

configuration data includes generating confirmation data based at least in part on data

from a network database storing current configuration data for said one or more network

elements (see e.g. col. 6 lines 21-34; configuration data is extracted from a database).

Regarding claim 4, Collins discloses wherein automatically generating updated

configuration data further comprises automatically generating said configuration data

based at least in part on a predefined script (see e.g. col. 5 lines 1-3 and col. 6 lines 9-

18).

Regarding claim 5, Collins discloses wherein automatically generating updated

configuration data includes populating predefined templates with data from a network

database storing configuration data on the one or more network elements and new

configuration data based on the service request (see e.g. col. 2 lines 55-63, col. 5 lines

12-21 and col. 8 lines 22-32).

Regarding claim 6, Collins discloses further comprising running one or more automated routines for automatically populating the templates with data from the network database and the new configuration data (see e.g. col. 6 lines 19-30).

Regarding claim 7, Collins discloses further comprising verifying that said new configuration data is consistent with a configuration of said one or more packet networks (see e.g. col. 7 lines 50-63).

Regarding claim 8, Collins discloses further comprising updating a network database, storing configuration data for said one or more network elements with said generated updated configuration data (see e.g. col. 5 lines 12-49).

Regarding claim 9, Collins discloses further comprising automatically updating a configuration of said one or more network elements based with generated updated configuration data (see e.g. col. 1 lines 47-55).

Regarding claim 10, Collins discloses further comprising verifying that said updated configuration of said one or more network elements is consistent with configuration data, for said one or more network elements, stored in a network database (see e.g. col. 2 lines 55-60 and col. 12 lines 53-57).

Regarding claim 11, Collins discloses wherein said verifying step comprises: retrieving said stored configuration data regarding said one or more network elements from said network database (see e.g. col. 6 lines 19-27); identifying one or more fields in said updated configuration of said one or more network elements (see e.g. col. 5 lines 50-54); and comparing values of said one or more identified fields with values of corresponding fields in said retrieved configuration data (see e.g. col. 4 lines 1-11).

Regarding claim 12, Collins discloses further comprising generating an exception in response to said values of said one or more identified fields not matching said values of corresponding fields in said retrieved configuration data (see e.g. col. 5 lines 23-34).

Regarding claim 13, Collins discloses a computer-implemented method for generating a network element specific configuration (see e.g. col. 1 lines 37-55 and fig. 2; configuring a target computer), comprising: receiving a request for adding, modifying or canceling a service on one or more packet networks (see e.g. fig. 5B, col. 7 lines 34-49 and col. 8 lines 22-38;a target computer requests packages from Stage Server and when target requests the package, it reports its values for known criteria so that the Transfer Daemon removes optional data files in turn the modified package is received by the Target); updating, upon receiving said request, one or more corresponding objects for said service in a network database comprising of network element inventory data for a plurality of network elements of said one or more packet networks (see e.g. col. 5 lines

12-49; software packages are transferred from a central repository for installation on a

target computer); determining which ones of said plurality of network elements are

affected by said request (see e.g. col. 5 lines 50-62 and col. 6 lines 58-64; system

identifies target computer that are to receive package); and automatically generating

configuration data, for each of said one or more affected network elements, from at

least said network element inventory data and one or more of a plurality of template

fragments comprising predefined configuration text (see e.g. col. 1 lines 48-62, col. 3

lines 27-49 , col. 6 lines 42-50 and col. 10 lines 32-45;each package contains one or

more data items which depend on pre-specified configuration values of the target that

are selected during the transfer).

Regarding claim 14, Collins discloses further comprising retrieving one or more selected

script objects from a plurality of script objects, each of said selected script objects

specifying a network element specific script for a corresponding one of said one or more

affected network elements (see e.g. col. 5 line 1-3 and col. 10 lines 46-52).

Regarding claim 15, Collins discloses further comprising obtaining abstract connectivity

information for each of said one or more affected network elements from said network

database (see e.g. col. 2 lines 55-63).

Regarding claim 16, Collins discloses wherein said abstract connectivity information

specifies a manner of connection between said one or more affected network elements

(see e.g. col. 2 line 64-col. 3 line 15).

Regarding claim 17, Collins discloses wherein said automatically generating configuration data further comprises: selecting said one or more of said plurality of template fragments; and assembling said selected template fragments into a template (see e.g. col. 5 line 1-3, col. 6 lines 19-36 and col. 10 lines 46-52).

Regarding claim 18, Collins discloses further comprising populating said assembled template with said network element inventory data (see e.g. col. 6 lines 19-24).

Regarding claim 19, Collins discloses further comprising communicating said configuration data to each of said one or more affected network elements (see e.g. col. 1 line 47-52).

Regarding claim 20, Collins discloses wherein said automatically generating step is performed prior to said communicating step (col. 3 lines 31-45 and 6 lines 19-24).

Regarding independent claim 21, the limitations of this claim have already been addressed (see claim 1 above).

Regarding claim 22, the limitation of this claim has already been addressed (see claim 2 above).

Regarding claim 23, the limitation of this claim has already been addressed (see claim 3 above).

Regarding claim 24, the limitation of this claim has already been addressed (see claim 4 above).

Regarding claim 25, the limitation of this claim has already been addressed (see claim 5 above).

Regarding claim 26, the limitation of this claim has already been addressed (see claim 6 above).

Regarding claim 27, Collins discloses a computer readable storage medium comprising: stored metadata for describing elements of a packet network, relationships between the elements of the packet network, and types of properties to be stored with respect to each element of the packet network; and fields defined by the metadata for storing configuration data (see e.g. col. 4 line 66-col.5 line 10 and col. 9 line 18-21; each package has data file that specifies attribute of the packet, name, type, identifier and description. Packages can be stored in a permanent storage or a computer memory).

Response to Arguments

4.   Applicant's arguments filed 07/25/2007 have been fully considered but they are

not persuasive.

5.   Applicant argues in substance,

   a.   The 101 rejection is in error and that the claims do produce a tangible

result.

   b.   Collins reference is directed toward distributing software packages and it

   does not teach packets or attributes.

With regard to Applicant's argument,

   a.   Applicant's attention is directed to explanation of 101 given in the office

action particularly when addressing claim 1. Moreover, Examiner agrees with the

Applicant that the claims have useful and concrete result however, as explained in the

rejection, the claims still lack tangible result.

   b.   Collins is compressive systems that among other things include method

for transferring software and data that form into a single entity known as packages. The

system of Collins discloses the configuration, installation, collection and forwarding of

packages in a distributive manner across the network (see fig. 5 and col. 1 lines 37-63).

Similarly, the system discloses utilization of attributes to describe the content of

packages as well as the network element directed or associated with such packages

(see col. 3 lines 27-49, col.4 line 66-col. 5 line 11 and col. 5 lines 22-33). Therefore,

indeed Collins discloses the functionality and the mechanism to package and associate

attribute both to network elements and contents of packages. The choice of wording

may be different, but certainly Collins discloses the functionality and the scope of the

claim limitation as presently recited.

Applicant employs broad language, which includes the use of word, and phrases,

which have broad meanings in the art. In addition, Applicant has not argued any

narrower interpretation of the claim language, nor amended the claims significantly

enough to construe a narrower meaning to the limitations. As the claims breadth allows

multiple interpretations and meanings, which are broader than Applicant's disclosure,

the Examiner is forced to interpret the claim limitations as broadly and as reasonably

possible, in determining patentability of the disclosed invention. Although the claims are

interpreted in light of the specification, limitations from the specification are not read into

the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir.1993).

It is the Examiner's position that Applicant has not yet submitted claims drawn to

limitations, which define the operation and apparatus of Applicant's disclosed invention

in manner, which distinguishes over the prior art. As it is Applicant's right to continue to

claim as broadly as possible their invention. It is also the Examiner's right to continue to

interpret the claim language as broadly as possible. It is the Examiner's position that

the detailed functionality that allows for Applicant's invention to overcome the prior art

used in the rejection, fails to differentiate in detail how these features are unique. It is

advised that, in order to further expedite the prosecution of the application in response

to this action, Applicant should amend the base claims to describe in more narrow detail

the true distinguishing features of Applicant's claim invention.

Failure for Applicant to significantly narrow definition/scope of the claims and

supply arguments commensurate in scope with the claims implies the Applicant intends

broad interpretation be given to the claims. The Examiner has interpreted the claims

with scope parallel to the Applicant in the response, and reiterates the need for the

Applicant to more clearly and distinctly defines the claimed invention.

Prior Art of Record

6.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure. Please refer to form PTO-892 (Notice of Reference Cited) for a

list of relevant prior art.

Conclusion

7.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

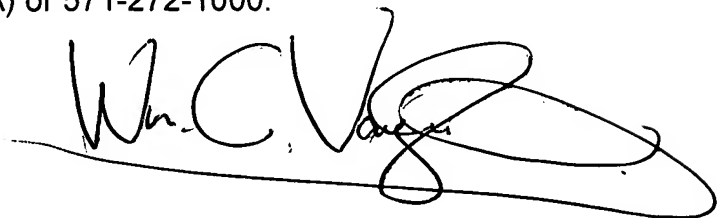shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohamed Ibrahim whose telephone number is 571-270-1132. The examiner can normally be reached on Monday through Friday from 7:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William C. Vaughn, Jr. can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MI/